IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

L.P.A. No.115 of 2005
Date of Decision: 19.3.2007

State of Haryana etc. ....Appellants through Mr.B.S. Rana, Additional Advocate General,Haryana

Versus

Ram Phal Singh ..... Respondent through Mr.R.K. Malik, Advocate

CORAM : HON'BLE MR.JUSTICE VIJENDER JAIN, CHIEF JUSTICE.
HON'BLE MR.JUSTICE RAJIVE BHALLA

1. Whether Reporters of Local Newspapers may be allowed to see the judgement ?
2. To be referred to the Reporters or not ?
3. Whether the judgement should be reported in the Digest ?

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VIJENDER JAIN, CHIEF JUSTICE

By this order, we propose to dispose of LPA Nos.110, 111,112,113,114,115,130 of 2005 and C.W.P.Nos. 16159, 16233 and 16234 of 2005, as they involve common questions of law and facts.

The controversy in the present appeals, as also the writ petitions, is to declare first and second proviso to Regulation 6(2) and Regulation 9-A(2) and proviso to Regulation 9(2) of the Haryana Public Service Commission (Conditions of Service) Regulations, 1973, as ultra vires of Articles 14 and 16 of the Constitution of India. The learned Single Judge,after considering the relevant statutory provisions, vide judgement dated 8.9.2004 held as follows :-

> "In view of the above, the first proviso under Regulation 6 (2) of the 1973 Regulations, whereby the emoluments payable to an erstwhile employee under the government who were drawing a wage in excess of the remuneration fixed under Regulation 6(1) of the 1973 Regulations, is restricted to the last wage drawn by him under the government, is liable to be set aside and is, accordingly, set aside. The remuneration payable to such member shall have to be, the same as the wage he would have drawn had he continued to serve under the government.
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> The instant writ petition as well as all the connected writ petitions detailed above are hereby allowed. The respondents are directed to determine the remuneration payable to the petitioners, based on the conclusion drawn hereinabove, within three months from today and actually disburse the arrears payable to them within a further period of one month."

A similar controversy, this time pertaining to the Punjab Public Service Commission, was the subject matter of CWP No.85 of 2005 (M..P. Pandove V. State of Punjab and others). A Division Bench of this Court, while placing reliance upon the judgement, in C.W.P.. No.15159 of 1995 decided on 8.9.2004 Ram Phal Singh V. State of Haryana and others (the judgement impugned in the present case) allowed the writ petition in terms thereof. The State of Punjab, preferred Special Leave Petition No.12336 of 2005, which was dismissed by the Hon'ble Supreme Court, vide order dated 13.7.2005.

Counsel for the respondents in the Letters Patent Appeals contend that as the judgement of the learned Single Judge, was relied upon by a Division Bench of this Court in C.W.P. No.85 of 2005 (M.P. Pandove V. State of Punjab and others) decided on 26.2.2005 and the Special Leave Petition against the aforementioned judgement has been dismissed, the present Letters Patent Appeals be dismissed.

Counsel for the writ petitioners contend that the controversy in their petitions, is squarely covered by the judgement in **Ram Phal Singh's case (supra).**

Counsel for the State of Haryana does not deny the correctness of facts, put forth by counsel for the respondents, and as noticed herein above. As a coordinate Bench of this Court has already approved the impugned judgement and Special Leave Petition against the judgement of the Division Bench has been dismissed, the Letters Patent Appeals, filed by the State of Haryana are dismissed, whereas the writ petitions are allowed in terms of the judgement i.e. C.W.P.No.15159 of 1995 Ram Phal Singh V. State of Haryana and others decided on 8.9.2004.

(VIJENDER JAIN)
CHIEF JUSTICE

19.3.2007
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(RAJIVE BHALLA)
JUDGE